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EXTRAORDINARY

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PART II—Section 2

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation

LOK SABHA

The following Bills were introduced in Lok Sabha on the 3rd May, 1974:—

BILL No. 30 OF 1974

A Bill to confer on the Supreme Court additional powers to issue certain writs

BE it enacted by Parliament in the Twenty-fifth Year of the Republic of India as follows:—

1. (1) This Act may be called the Supreme Court (Conferment of Additional Powers) Act, 1974.

Short title and commencement.

(2) It shall come into force on the 26th January, 1975.

2. The Supreme Court shall have power, throughout the territory of India, to issue to any person or authority, including in appropriate cases any Government within the territory of India, directions, orders or writs, including writs in the nature of *habeas corpus*, *mandamus*, prohibition, *quo warranto* and *certiorari*, or any of them, for, any purpose other than the enforcement of the rights conferred by Part III of the Constitution.

Power to issue directions, orders and writs.

STATEMENT OF OBJECTS AND REASONS

Article 139 of the Constitution empowers Parliament to confer by law on the Supreme Court powers to issue writs for purposes other than the enforcement of fundamental rights. The High Courts of India have under article 226 this additional power to issue writs "for any other purpose". It is but proper that the Court, which is known as the Supreme Court and the jurisdiction of which extends to the entire territory of India, should have the same powers as the High Courts in the matter of these writs, so that an aggrieved person can approach the Supreme Court direct. All citizens of India will welcome the conferment of this right on the Supreme Court for which our Constitution-makers have in their wisdom made a provision in article 139 of the Constitution. This Bill seeks to confer these powers on the supreme judicial tribunal of our country.

NEW DELHI;

MADHU LIMAYE.

The 4th March, 1974.

BILL No. 28 OF 1974

A Bill further to amend the Constitution of India

BE it enacted by Parliament in the Twenty-fifth Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 1974.

(2) It shall come into force at once.

2. In article 145 of the Constitution, after clause (5), the following new clause shall be added, namely:—

“(6) The Supreme Court shall not dismiss any matter that comes before it in the form of appeal or otherwise without stating, may be howsoever briefly, the reason or reasons for dismissing the matter sought to be raised before it.”.

Short
title and
commence-
ment.

Amend-
ment of
article 145.

STATEMENT OF OBJECTS AND REASONS

In our democratic system, the ultimate sovereignty resides in the people. The executive, the legislature and the judiciary are all creatures of the Constitution which the people of India have given themselves, and all these three branches of the government are, and should ultimately be, responsible and accountable to the public opinion in this country. In order to enable the public to assess the work of the executive, the legislature and the judiciary, it is necessary that sufficient information is made available to the people.

The Supreme Court, being the highest judicial tribunal of the land, should not only deliver its judgments in open court, but should also state in the orders passed by it, as clearly as may be, the reasons for passing these orders. There have been cases where the Supreme Court, in summary proceedings, has dismissed petitions upon hearing petitioners or their counsel, but has not thought it necessary to state the reasons for its doing so.

In the interest of justice and in order to make possible an assessment of the decisions of the Supreme Court, it would be desirable if it was made mandatory on the Supreme Court that while dismissing petitions it should state the reasons for its doing so. The passing of this Bill will, it is hoped, improve the quality of the work of the Supreme Court.

NEW DELHI;
The 6th March, 1974.

MADHU LIMAYE.

BILL No. 41 of 1974

A Bill to provide for payment of a minimum wage of rupee one per hour in all types of Government or private employment

Be it enacted by Parliament in the Twenty-fifth Year of the Republic of India as follows:—

1. (1) This Act may be called the Minimum Wages (in all types of employment) Act, 1974.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Short title,
extent
and com-
mence-
ment.

11 of 1948.

2. Notwithstanding anything contained in the Minimum Wages Act, 1948 or in any other law for the time being in force, the minimum rate of wages payable to an employee employed in an employment, government or private, irrespective of the nature of employment or the type of work done by him, shall be not less than rupee one per hour.

Minimum
wage in
all types
of employ-
ment.

11 of 1948.

Explanation.— An employment in this section includes the types of employment specified in the Schedule to the Minimum Wages Act, 1948.

STATEMENT OF OBJECTS AND REASONS

The minimum wages fixed under the provisions of the Minimum Wages Act, 1948 are at a low side as that Act itself does not provide for the quantum of a minimum wage but the fixation has been left to the appropriate Government. At the same time, that Act does not cover every citizen who is in employment. It covers only certain types of employment specified in the Schedule to that Act. The application of that Act is, therefore, very limited.

The need of the hour is to guarantee a minimum wage to employees in all types of employment whether government or private. Weaker sections of society like domestic servants, Harijan labour, casual labour and messengers or peons will also benefit from the proposed Bill.

A minimum wage of rupee one per hour will give some relief to the workers in these hard days when the prices of all the essential commodities have risen many times and they are constantly showing a rising trend.

Hence this Bill.

NEW DELHI;

VIKRAM MAHAJAN.

The 28th March, 1974.

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides for payment of a minimum wage of rupee one per hour to all employees, whether in government or private employment. As the Government of India will also have to increase the minimum wages to rupee one per hour in some cases at least, a recurring expenditure of about rupees ten lakhs is likely to be involved from the Consolidated Fund of India.

No non-recurring expenditure is likely to be involved.

BILL No. 48 OF 1974

A Bill further to amend the Essential Commodities Act, 1965

BE it enacted by Parliament in the Twenty-fifth Year of the Republic of India as follows:—

1. (1) This Act may be called the Essential Commodities (Amendment) Act, 1974.

(2) It shall come into force at once.

2. For section 10A of the Essential Commodities Act, 1955, the following section shall be substituted, namely:—

10 of 1955.

“10A. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, every offence punishable under this Act shall be cognizable and non-bailable.”

Short
title and
com-
mence-
ment.

Substitu-
tion of
section
10A.

Offences
to be
cogniza-
ble and
non-bail-
able.

STATEMENT OF OBJECTS AND REASONS

The hoarders, black-marketeers are playing hell with the lives of millions of people in the country by violating the provisions of the Essential Commodities Act, 1955.

These man-eaters are too cunning and always escape through the lacunae in the law. Even in case when they are caught red-handed, they get immediate bail even from the police officer and try to tamper with evidence and foil the process of investigation. So, the administration of justice is reduced to a farce.

These undesirable and anti-social elements should be sternly dealt with.

To achieve the very object of the Act, to secure effective administration of justice, to ensure a free and fair investigation, it is necessary that such persons should not be released on bail.

Hence it is necessary to make every offence under this Act non-bailable.

NEW DELHI;

D. K. PANDA.

The 28th March, 1974.

BILL NO. 47 OF 1974

A Bill to repeal the Judicial Officers Protection Act, 1850

BE it enacted by Parliament in the Twenty-fifth Year of the Republic of India as follows:—

Short
title
and com-
mence-
ment.

1. (1) This Act may be called the Judicial Officers Protection (Repeal) Act, 1974.

(2) It shall come into force at once.

Repeal.

2. The Judicial Officers Protection Act, 1850 is hereby repealed.

XVIII of
1850.

STATEMENT OF OBJECTS AND REASONS

The persons exercising judicial authority are enjoying certain immunities under the Judicial Officers Protection Act, 1850. Experience for decades has shown that there has been more of abuse of this judicial authority than proper use of the same. In fact, it has been found to be a futile exercise which permits undue privileges to Judicial Officers. Because of the Protection under this Act, the Judicial Officers often forget to exercise their authority with restraint in some cases.

Hence it is necessary to repeal this Act to put an end to the abuse of judicial power.

Hence this Bill.

NEW DELHI;

D. K. PANDA.

The 28th April, 1974.

BILL NO. 49 OF 1974

A Bill further to amend the Companies Act, 1956

WHEREAS it is expedient to provide for the abolition of equal voting rights to preference shareholders which were saved by the Act of 1956;

BE it enacted by Parliament in the Twenty-fifth Year of the Republic of India as follows:—

Short
title and
com-
mence-
ment.

1. (1) This Act may be called the Companies (Amendment) Act, 1974.

(2) It shall come into force at once.

Omission
of Section
90.

2. Section 90 of the Companies Act, 1956 shall be omitted.

1 of 1956.

STATEMENT OF OBJECTS AND REASONS

As far as the pre-1956 companies were concerned, the Companies Act, 1956 by section 90 had saved the rights of preference shareholders, and put them on par with the rights of the equity shareholders. This is an obsolete provision and is doing a lot of harm.

This provision is, particularly, being exploited by unscrupulous businessmen. The so-called House of Kapadias has sought to capture the National Rayon Corporation by exploiting section 90 although total financial interest of the Kapadias was only 8 per cent. Because of the malpractices indulged in by the Kapadias, the Company Law Board had to intervene in the affairs of the Corporation several times. Even the Bombay High Court has had to pass strictures on the ways of the Kapadias. It is, therefore, necessary to do away with this evil once for all.

This Bill is being introduced to put an end to this malpractice.

NEW DELHI;

MADHU LIMAYE.

The 2nd April, 1974.

BILL NO. 42 OF 1974

A Bill further to amend the Constitution of India

BE it enacted by Parliament in the Twenty-fifth Year of the Republic of India as follows:—

Short
title.

1. This Act may be called the Constitution (Amendment) Act, 1974.

Insertion
of new
article
26A.

2. After article 26 of the Constitution, the following new article shall be inserted, namely:—

Archakas
and
other
office
holders
and
servants
in Hindu
religious
institu-
tions to
be ap-
pointed
irrespec-
tive of
caste.

“26A. (1) Notwithstanding anything contained in articles 13, 14, 15, 25 and 26, the State may, by law, provide that vacancies, whether permanent or temporary, among the office holders or servants (including archakas and pujaries) of any Hindu religious institution shall be filled by a person professing Hindu religion and possessing such qualifications as may be specified in such law, irrespective of the caste, creed or race of such person.

(2) If anything contained in any agamas or sastras or any text, rule or interpretation of Hindu Law or any custom or usage or part of that law is repugnant to any of the matters for which provision is made in the law referred to in clause (1), the law referred to in clause (1) shall prevail and such agamas or sastras or any text, rule or interpretation, custom or usage or part of Hindu Law shall, to the extent or repugnancy, be void.

(3) No such law as is referred to in clause (1) shall be deemed to be void on the ground that it is inconsistent with or takes away or abridges any of the rights conferred by articles 25 and 26."

STATEMENT OF OBJECTS AND REASONS

There has been widespread public criticism against the system of hereditary appointment of archakas, pujaries and other Ulthurai servants in Hindu religious institutions. The Committee on Untouchability, Economic and Educational Development of the Scheduled Castes has also suggested in its report that the hereditary priesthood in Hindu society should be abolished and that the system could be replaced by an ecclesiastical organisation of men possessing requisite educational qualifications who might be trained in recognised institutions in priesthood and that the line should be open to all candidates irrespective of caste, creed or race. In the light of the public criticism and as a further measure of social reform, the Tamil Nadu State Legislature enacted the Tamil Nadu Hindu Religious and Charitable Endowments (Amendment) Act, 1970 (Tamil Nadu Act 2 of 1971) abolishing the system of hereditary appointment of archakas and pujaries in Hindu religious institutions. In *E.R.J. Swami vs. State of Tamil Nadu* (AIR 1972 SC 1586), the Supreme Court, while approving the validity of the amending Act, gave a very restricted interpretation by laying down that though the next-in-line of succession would not be entitled to be appointed as archaka or pujari by reason of the amending legislation, yet, in view of the provisions of articles 25 and 26 of the Constitution, the appointment of archakas and pujaries had to be made from a specified denomination, sect or group in accordance with the directions of Agamas governing the temples and that failure to do so would interfere with the religious practice. In the light of the decision of the Supreme Court, any State legislation to give effect to social reform entitling any person irrespective of caste, creed or race to be appointed as archakas or pujaries in Hindu temples may be struck down as infringing articles 25 and 26 of the Constitution. In order to enable the State Legislatures to enact legislation for the above purpose, it is necessary to amend the Constitution suitably.

2. The Bill seeks to achieve the above objects.

NEW DELHI;

R. P. ULAGANAMBI.

The 3rd April, 1974.

BILL No. 45 of 1974

A Bill to provide legal assistance to the poor persons in certain cases

Be it enacted by Parliament in the Twenty-fifth Year of the Republic of India as follows:—

1. (1) This Act may be called the Free Legal Assistance Act, 1974.

Short title
and com-
mence-
ment.

(2) It shall come into force at once.

2. In legal proceedings regarding implementation of land reforms, protection of tenancy rights, distribution of surplus land, encroachment on Government fallow land or in other proceedings involving agricultural landless labourers, small farmers, the party to the proceedings whose income is rupees one hundred per month or less shall have the right to free legal aid from the State irrespective of the fact whether the proceedings were initiated by the person claiming the right to legal assistance under this Act or by the other party who may be the Government or a landlord or any body else.

Right to
free legal
assistance.

3. Free legal aid shall be available in the courts from the level of Sub-divisional Officers to the District Collector and in the High Court.

Legal aid
up to High
Court.

Court to
appoint
counsel.

4. Where a party to the legal proceedings applies to the Court hearing the matter for free legal aid, the Court shall proceed to inquire into the monthly income of the applicant and if the Court is satisfied that the income of the applicant is rupees one hundred per month or less, it shall appoint a counsel for the applicant.

Certain
organisa-
tions to
certify
the
income.

5. Organisations representative of the masses, including the All-India Kisan Sabha, All India Khet Majdoor Unions and the like, shall have the power to certify the income of the party applying for free legal aid under this Act and the Court (as mentioned in section 4) shall accept the certificate.

Court to
fix the fee
of counsel.

6. The fee of the counsel appointed under section 4 shall be fixed by the Court hearing the matter.

Govern-
ment to
pay fee.

7. The fee of the counsel shall be paid by the Government.

Powers
to make
rules.

8. The Central or the State Government, as the case may be, shall make rules for implementing the provisions of this Act in the territories under their jurisdiction.

STATEMENT OF OBJECTS AND REASONS

The problem of legal aid has been on the anvil since 1950 when the Bhagavati Committee submitted its report and based upon the recommendations of the said Committee the Bombay Government first introduced a Bill to that effect. Thereafter in 1958, the Communist led Government in Kerala brought another Bill to provide legal aid to the poor.

After 25th Constitutional Amendment, quite in conformity with the Directive Principles of the Constitution, it has become imperative now to provide for legal aid for the weaker sections of the society.

Article 14 of the Constitution enshrined the hopes and aspirations of the poor people in categorical terms namely equality before law. But the Government has failed to fulfil its commitment made in this regard so far.

Now after the Land Reforms Commission has set forth the guidelines for each State regarding land ceiling, many States have introduced Land Reforms Bills. In Orissa a comparatively progressive Bill has been introduced fixing the ceiling at 10 standard acres.

While on the one hand these Acts have evoked great enthusiasm among the poor landless Harijans and Adivasis, on the other hand there is resistance to the implementation of these Acts from the side of the landlords and zamindars. They are resorting to section 145 of the Code of Criminal Procedure and also Civil Courts to sabotage the land distribution and ultimately to harass the landless persons so as to deprive them of their legitimate rights.

So, the Government should come forward to defend them in the courts by rendering financial and legal assistance to them to see that the manoeuvres of the landlords and zamindars are defeated, and the landless persons are given land in such proceedings arising out of implementation of Land Reform Acts and encroachment cases which are pending against those landless persons in occupation of Government fallow lands.

Hence this Bill is aimed at providing necessary legal assistance to those weaker sections of the society at large.

NEW DELHI;
The 3rd April, 1974.

D. K. PANDA.

FINANCIAL MEMORANDUM

Clause 7 of the Bill provides for payment of fee to the counsels appointed for free legal assistance under the Act. This is likely to involve a recurring expenditure of about rupees ten lakhs from the Consolidated Fund of India.

No non-recurring expenditure is likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of the Bill empowers the Central and the State Governments to frame rules for implementing the provisions of this Act in their respective territories. As the rules to be framed will relate to matters of detail only, the delegation of power is of a normal character.

BILL NO. 50 OF 1974

A Bill to provide for the nationalisation of all the foreign owned plantations in India

BE it enacted by Parliament in the Twenty-fifth Year of the Republic of India as follows:—

Short
title and
com-
mence-
ment.
Defini-
tion.

1. (1) This Act may be called the Foreign Owned Plantations (Nationalisation) Act, 1974.

5 (2) It shall come into force at once.

2. In this Act, unless the context otherwise requires, "foreign owned plantation" means any plantation falling in the following categories:—

(a) the plantations owned by companies which are registered or incorporated in foreign countries;

(b) the plantations owned by a person or persons who is a citizen of another country;

(c) the plantations which are owned by companies in which majority shares are owned by foreign companies or citizens;

(d) any other category of plantations in India owned or controlled by foreign companies or citizens of other countries.

Setting
up of Na-
tional
Planta-
tions Cor-
poration.

3. There shall be set up by the Central Government a Corporation to be known as the National Plantations Corporation to administer and manage the plantations, which shall be nationalised by this Act.

Vesting of
owner-
ship,
adminis-
tration
and
manage-
ment.

4. On the commencement of this Act, the ownership, administration and management of all the foreign owned plantations shall vest in the Central Government.

National
Planta-
tions
Corpora-
tion to
manage
and ad-
minister
the
Planta-
tions.

5. The Central Government shall entrust the National Plantations Corporation with the administration and management of all the plantations whose ownership vests with the Central Government under this Act.

STATEMENT OF OBJECTS AND REASONS

The foreign owned plantations in India are notorious for their brutal exploitation of the poor plantation workers in the most uncivilised manner which reminds us of the old days of colonial subjugation. This should be put an end to.

The enormous profit these plantations are making and its continuous repatriation from our country are hindrance to our economic growth and social progress. It is a drain on our economy.

The owners of these plantations are not very certain about their future in India. This uncertainty becomes acute when they see that many newly independent countries are nationalising the foreign owned plantations and industries. As a result of this, they are steadily losing interest even in the maintenance of these plantations and they are now virtually neglecting these totally.

It is a fact that the foreign owners of plantations had completely abandoned all the developmental activities in their plantations. Most of them had stopped replanting, proper maintenance etc. Their only aim now is to get whatever maximum out of these plantations by spending absolutely the minimum.

If this will be allowed to continue, it would ruin these plantations which will be a great national loss.

Besides these, the plantation industry is a highly profitable one if it is brought under the control of the Government, it would contribute greatly for us to achieve our economic goals. As a first step in this direction, the foreign owned plantations should be nationalised.

Taking all these into account the Kerala Government had sent an ordinance to the Centre for the nationalisation of the foreign owned plantations in Kerala. Though this ordinance had been sent to the Centre in 1971, no decision has been taken about it so far. As a result of this indecision and inordinate delay of the Centre, the Kerala Government could not nationalise the foreign owned plantations in that State.

As the problem of foreign owned plantations is one which affects several States in India, an Act of Parliament would help the Government to bring all the foreign owned plantations under the Government and to administer and manage those in a more co-ordinated effective and systematic manner through a Central agency, the National Plantations Corporation.

Hence this Bill.

NEW DELHI;

C. K. CHANDRAPPA.

The 3rd April, 1974.

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for setting up of a Corporation by the Central Government for administering the plantations the ownership of which would be transferred to the Central Government. Though no recurring expenditure is likely to be involved in setting up of the Corporation, a non-recurring expenditure of about rupees ten lakhs is likely to be involved from the Consolidated Fund of India.

S. L. SHAKDHER,
Secretary-General.

